LETTER

OF

JAMES S. GREEN, OF MISSOURI.

WASHINGTON, *December* 10, 1849.

Messrs. John S. Farish, John W. Minor, Thomas Roberts, Wesley Burks, and others, Citizens of Schuyler County, Missouri:

GENTLEMEN: I have the honor to acknowledge the receipt of your letter, in which you express a desire to have my opinions at length, in some tangible form, upon the exciting questions growing out of the subject of slavery, as agitated in our State, and throughout the Union.

Other pressing obligations, both public and private, have prevented a response at an earlier day; but, recognizing to the full extent and greatest latitude your right to make the demand, I will most cheerfully comply with the request, and present it in such form for public use, that all of my constituents may know the course of conduct I shall feel it my duty to pursue. This is a time of no ordinary occurrence. Great principles are now at stake, and in danger of being overthrown; and it becomes the imperative duty of all to exert their influence in maintaining the ascendency of truth against the powerful array of character and of talent that give to error and false doctrine a countenance and support which they could not otherwise obtain.

Among the most important of these great principles, that have been put in jeopardy, may be named the *right of instruction.* This lies at the foundation of all Democratic and Republican institutions, and cannot be surrendered or departed from in practice, without a total subversion of the character of our Government. It regards the legislative officer as the agent, servant, and representative of the power which elevated him to office. He is not placed in that position to do his own will and pleasure, but to carry out the will of those who elected him. It *requires* him to obey the instructions of his constituents, and to conform his actions to their commands. And while this principle is faithfully adhered to, there can be no great apprehension for the security of our rights, as long as virtue and intelligence predominate with the people; but when it is denied and practically subverted, the knavery, treachery, and corruption of public officers may involve us in irretrievable ruin. These facts were so palpable to the mind of the great and immortal Jefferson, who may be emphatically called the father of the Republican creed, that he strongly inculcated the duty of the representative to obey the will of his constituents. His compatriot, Madison, a disciple of the same school, and distinguished as the father of the Federal Constitution, was no less ardently attached to the same principle, and declared, on a memorable occasion, *that the State Legislatures were the immediate constituents of the Senators in Congress.* And when the present great political parties were first formed, and first presented their distinctive features, the *right* of the constituents to *instruct*, and the corresponding *duty* of the representative to *obey*, constituted one of the prominent principles of the Democratic party. So it has remained to the present day. When Col. Benton sought to expunge from the Journal of the Senate the odious charge against General Jackson, *the right of instruction* was his most effective weapon. And but for the acknowledgment of this principle, that unjust stigma upon the memory of our venerated Jackson never would have been expunged. But with it, the people have triumphed, justice has been done to Jackson, and the true will of the nation vindicated.

And shall we now abandon the right of instruction, which is correct in principle, and inestimable in practice, merely because Col. Benton, who has long been its professed friend and advocate, has seen proper to declare that he will not obey the instructions passed by our Legislature on the subject of slavery? Surely not. We are attached to *truth*, important to governmental policy as well as religion, and cannot consent to forsake it, in order to follow our best friends or greatest statesmen.

Colonel Benton's appeal, and present course, amount to a practical abandonment of the doctrine of instruction; and for that reason, if for no other, I could not approbate his conduct. True, he does not in so many words deny the right of the Legislature to instruct the Senators; but while he admits this, he does that which, for all practical purposes, renders the right of instruction of no effect. By his "appeal" he designs to overreach and supersede the expressed will of the legislative authority. He substitutes what he may choose to consider the sentiments of tumultuous crowds, for the declared will of the people, as expressed through their only constitutional organ. And in his strange proceedings he constitutes himself not only the *appellant* and *advocate*, but also the JUDGE in his own case; and we therefore may expect him to decide according to his own inclination.

His example, if followed by others hereafter, will enable every Senator to evade the instructions of the Legislature; and if it had been practiced in former days, the expunging resolutions could not have been passed when they were.

But you will observe, that I do not deny the right of any man to appeal to the people, and address himself to the public mind, in order to obtain an expression from them in a legal and constitutional form. That right is as sacred as the right of instruction—every citizen possesses it. It is the right of free discussion. But until the people, in pursuance of legal authority, have changed the instructions of the Legislature, (and it can only be done *through* the Legislature,) it is the imperative duty of the Senator to *obey* or *resign*. And for any Senator to disobey, while the instructions stand unrepealed, and in full force on the statute book, is nothing less than absolute nullification.

And it is worthy of notice, that our resolutions of instruction do not require of Colonel Benton *any vote* or *any act* which can conflict with his declared opinions of the Constitution on the subject of slavery. They simply instruct him to vote for the extension of the Missouri compromise line to the Pacific Ocean, if thereby this difficult controversy can be settled; or, if that cannot be done, then to vote *against* any other interference with the subject. He claims full constitutional power to legislate as Congress may please over the subject of slavery in the Territories; and surely to obey the instructions, and vote *against all interference*, unless the Missouri compromise can be obtained, cannot involve a violation of the Constitution, according to his own construction of that instrument. The Senator is not called upon to mould his *opinions* in conformity to the language of the instructions; but he is required *to do the acts commanded*. The acts required by our resolutions are all of a *negative* character, except the extension of the compromise line, and to that Colonel Benton pretends to take no exception. Voting in the negative—voting *against* the Wilmot proviso, and voting *against* all bills interfering with slavery, cannot violate the Constitution; and that is precisely what the Senator is commanded to do. No reason, therefore, can be found to exonerate him from strict obedience to the legislative instructions.

Even if acts were commanded, and votes enjoined upon the Senator, which he might think unconstitutional, it would not release him from his responsibility; but it would present such a case as would justify a resignation of his trust, leaving it for others to carry out the will of the State. The sovereignty of the State is represented by the Senators; and when that sovereign power speaks through its proper constitutional organ, the servant should not be permitted to set up his opinions or his will, in opposition to that of his master. When he cannot conscientiously *obey*, he can, at least, conscientiously *resign;* and by this course the will of the State can never be defeated.

But as an excuse for disregarding the instructions, it is said they passed by fraud, after being concocted by a band of conspirators, whose motives were base, selfish, and personal.

This has been repeated so often, and with so much boldness and effrontery, that many good men have been led to believe it, although, for myself, I have not seen or heard the first particle of evidence tending in any degree to sustain the charge. To me, it looks like adding insult to injury. Not content with

trampling on the authority of the State, the next step is to tarnish her reputation. The charge, however, is but a pretext—an unsupported, flimsy pretext, designed to deceive the people, and thereby mitigate, if not conceal, the offence of disobedience. They were passed on the seventh of March last, and intended to control the Senators at the *subsequent sessions of Congress;* just like the instructions for the railroad, and many others which have passed since the organization of our Government. And whether they were conceived by one man or another; whether they were written by one member, or a dozen others in conjunction with him, are questions wholly irrelevant and immaterial. When they were written and laid before the two houses of the General Assembly, they were seen, examined, and *approved,* by a large majority of each house, and passed in strict conformity to the letter and spirit of the constitution. Then, they became the act of the Legislature, and so they will ever remain, though subject to repeal by a subsequent act equally solemn. And at this moment of time, notwithstanding all that has been said against them, a majority of the members yet approve them, and, if now in session, would reënact them to-day: and this fact disproves the charge that they were passed by fraud and deception upon the members.

But here a very important question presents itself. When acts of the Legislature, regularly enacted, are alleged to have been passed by fraud, who is to determine whether the charge is true or false? and, if true, where is the remedy? Is any individual who chooses to make the charge, or who is credulous enough to believe it, thereby released from his obligation to obey the law? Clearly not. The Supreme Court itself has no power to relieve him. That fact, if true, might be a reason why the law should be repealed; but until it is repealed, every one is required to observe its precepts. So with resolutions of instruction, in their binding character upon the Senators.

But is there anything in our instructions so very objectionable as to require their repeal by the Legislature? Are they false in facts—unconstitutional in their principles—nullification in their essence—disunion in their character—high treason in their remedy? This has been asserted by those opposed to them, and if true, the Legislature should repeal them without delay. But let us not take assertion for proof—let us not yield the assent of our minds to bold denunciation. Unless a close and fair examination of the instructions themselves will justify the assertion, it must be regarded by all thinking men as the mere expression of exasperated feeling, and of no more consequence than

> ——— "a tale told by an idiot:
> Full of sound and fury, signifying nothing."

The first resolution simply declares that the Constitution of the United States was the result of a compromise between the conflicting interests of the States which formed it; and then asserts, as a matter of fact, that there is no delegation of power to Congress over the subject of slavery, excepting some special provisions, which are specified, and which fact is proved by an examination of the Constitution itself; and then concludes with a deduction of the Legislature drawn from these premises, to the effect, that therefore Congress ought not to legislate upon the subject of slavery so as to affect it in the States, the District of Columbia, or the Territories. This resolution holds forth in strong and clear terms the doctrine of *non-interference.* Its object is to induce Congress to let the subject of slavery *alone*—to leave it *untouched;* and it requires the Senator to vote against any proposition that interferes with it. This is the old and long-cherished doctrine of the Democratic party; and a majority of the Whigs, too, in Missouri, are in favor of the same principle of *non-interference.* The Baltimore platform, in 1844 and 1848, expressly declares the same principle. It is therefore sanctioned by all the Democrats of the State, except the few Barnburners, if any, who refused to vote for Cass and Butler. And, in addition to the Baltimore platform, it is also distinctly and forcibly set forth by General Cass in his letter to Mr. Nicholson. Indeed, Colonel Benton himself admits that the issue presented in the election of 1848, on the slave question, was identically the same as that presented in our instructions. He says the prin-

ciples of the Missouri instructions and the principles of the Calhoun resolutions are the same; and then he also says, "*Cass and Butler were defeated on tests framed out of these resolutions.*" (See p. 11, 2d col., Jefferson Speech.)

Now, I ask, on what *test*, on the slave question, were Cass and Butler defeated in the last Presidential contest? The answer is, that *test* above referred to, and that only found in the Baltimore platform. Colonel Benton says that test was framed out of these resolutions; and hence it appears, by Colonel Benton's own admission, that we all, including himself, are committed, and doubly committed, by voting for Cass and Butler, to the doctrine of our resolutions of instruction. And as a large majority of our State had voted for Cass and Butler at the November election, it was certainly presumptive evidence of the sentiments of the State; and the Legislature did right to reiterate the same principles, as they have done by the passage of the instructions. And although it is true Cass and Butler were defeated, that defeat was caused by the defection of the Barnburners, whose disgraceful steps others, unfortunately, now seem disposed to follow. And since that defeat, ambitious politicians are endeavoring *to change the test*, notwithstanding, for many years before, while that same test was found inscribed upon a victorious banner, not a word of complaint was ever uttered. But the defeat itself is no evidence that this principle is repudiated by the American people. Far from it. There were many, very many, who voted for General Taylor, for the avowed reason that they believed he would be more faithful to this principle than General Cass; and I mention this fact merely to show that there are hundreds and thousands of Whigs in Missouri, and other southern States, who heartily approve our doctrine on the subject of slavery. It is approved because of its patriotism, truth, and liberality, and in every respect suited to this trying emergency. The whole country is in commotion and intense excitement, growing out of the slave question. Our Union, which we love, which we cherish, and which we are ever ready to protect and defend, is put in peril by it, and it therefore becomes our duty to take such a just and equitable position, on this subject, consistent with the Constitution, that the friends of the Union, everywhere, may coöperate with us. Of that description is non-interference; and this is what our Legislature proclaims in the instructions. It is broad enough to embrace the North and the South, the East and the West, and calculated to harmonize every conflicting interest. Here all friends of the Union can meet, and, without sacrificing anything, forever settle the unfortunate agitation. And if we really and sincerely love the Union, and desire its perpetuity, ought we not to evince that regard by sustaining the Constitution, and by taking a ground which will enable us to protect our rights and ward off the threatened danger? Nothing less deserves the name of patriotism.

The second resolution of instruction is equally entitled to our commendation. It says, in substance, that the Territories of the United States ought to be governed for the common benefit of *all* the States, without discriminating against any one of the sovereignties; and that admitting the citizens of one State to enjoy the territory, with their property, and excluding those of another State from a like participation, would be insulting to the States thus affected, and, consequently, would alienate their feelings and weaken the bonds of the Union. And is not this sentiment just and true? Does not the territory belong to all the States? Are not the citizens of each one of the States justly entitled to a participation in its benefits? Ought not the General Government to use its legitimate power, in the administration of the Territories, for the equal advantage of all alike, without distinction? And if gross and palpable injustice should be done to any part of the States, do we not all know that it will tend to alienate the one from another; and, in defeating the great purpose for which the Union was formed, that it will hasten its dissolution? These facts are clear and unquestionable, and are well expressed in the resolution. No good reason can be given against the truth and propriety of the principles therein contained; and it really seems to me that no one can object to it, unless he desires the territory, purchased by the blood and treasure of all the States, to be governed for the exclusive benefit of part of the States only—the injustice and iniquity of

which must be palpable to every one, whose moral sense is not wholly blunted by intrigue and corruption.

The third resolution is drawn with the view to compromise. It presents what the State of Missouri would yield to, and acquiesce in, for the sake of peace and harmony, and for the preservation of the Union; and that is the extension of the compromise line of 36° 30′ due west to the Pacific Ocean. This would make a division of the territory, and give to the North the largest part of it; but yet, as a compromise and as the least of evils, Missouri would accept that adjustment of the question, if thereby the spirit of anti-slavery fanaticism could be staid fiom further encroachment on our rights. Not that the North has any just right to claim all lying north of the compromise line, but that Missouri would yield even that far, rather than keep up the agitation, and endanger the stability of our Federal Constitution. It is dictated by a love of country—by a love of the Union—by a love of peace and harmony—by the benign spirit of Christianity. And this friendly offer, too, is made, notwithstanding nearly every non-slaveholding State has passed resolutions of instruction in favor of the *Wilmot proviso*, which would virtually exclude us from the whole of the territory. But our State is still forbearing—still for maintaining that brotherhood which is the real cement of the Union. Is it not, then, magnanimous, and entitled to the highest praise, that Missouri should take a position so liberal and so conciliatory? And how strange and how extraordinary, that any citizen of the State should condemn, ridicule, and denounce this resolution, conceived in patriotism, and framed with special reference to the preservation of our happy Union.

The fourth resolution declares the right of the people themselves, inhabitants of the Territories, in forming a State government, to settle the question of slavery according to their own will and pleasure. The true principles of Democracy dictate this resolution. The right of self-government, recognized as the peculiar privilege of American citizens, is here declared as applicable to the inhabitants of the Territories. And what republican worthy of the name, will controvert the truth of this sentiment? If the people there do not desire the institution of slavery, it would be the worst of tyranny to *force* it upon them by Congressional legislation; and it would be equally tyrannical to interdict slavery, if the people really desire to have it. They are the best judges of their own interests. Let them, then, remain untrammeled, to choose or refuse, without any coercion on the part of Congress. This is the doctrine of the resolution; and yet it, as well as the others, is condemned by Colonel Benton, who says they should all be expunged. But, in my opinion, the good judgment of the people will retain it, and in after time the will of the nation will cheerfully acknowledge its truth. And even if the people of the Territories should decide against slavery, we would have no just cause of complaint, for it would only be an exercise of their voluntary will; and though the exclusion might injuriously affect our slave property, still it would be done by those who have the undoubted right within their proper jurisdiction, just as any other sovereign State.

The foregoing is a brief view of my understanding of all the resolutions of instruction, except the last one, which has no possible reference or application to the official action and conduct of Colonel Benton. They set forth doctrines and principles which commend themselves to every Missourian, and to every friend of the Federal Constitution. The Democratic party has always recognized them, ever since the slave agitation first assumed a formidable aspect.

On the 6th July, 1838, the Democratic members of both Houses of Congress, of whom Colonel Benton was one, met in caucus, or *conclave*, if the term is preferred, for the purpose of declaring the opinions of the party; and adopted and published an address, of which the following is an extract:

"The subject of abolition has assumed a character so formidable in its appearance, and so destructive in its tendencies, as to call for a brief exposition of our views.

"The existing relation of master and slave, between the two races inhabiting the southern portion of the Union, existed when the Constitution was formed, and is *recognized in the apportionment of members in the House of Representatives, as well as in the imposition of direct taxes, and the clause guarantying the delivering up of persons held to service or labor in one State and escaping into another.*

"It is manifest, that the *power over this subject is one of those not delegated to the General Government*, and of course is one of the reserved powers; as such, it is under the entire control of the respective States, within whose limits the institution may exist, and within which neither this Government, nor that of the other States, nor their citizens, have any more right to interfere, *directly or indirectly*, than with the existence of slavery in Cuba, or any other foreign country.

"We hold that whatever may be the individual opinions of public men as to the character of the domestic institutions of the slaveholding States, they have no right, when acting under the Federal Government, by any of their acts, to discriminate between their institutions and those of the other States. It must be borne in mind, that ours is a Federal Republic, as has been already stated, formed by sovereign and independent States, for their mutual security and happiness, and that they instituted this Government, and clothed it with powers to carry into effect these important objects. Such being the character and object of our system, it is clear that this Government *can have no right whatever to give a preference to the institutions of one portion of the Union over those of another; and to do so, be the pretext what it may, would be directly subversive of the object for which it was established, by destroying that which it was intended to protect.*

"Instead of preserving peace and tranquillity, it would become an instrument in the hands of the stronger portion of the Union *for assailing the institutions of the weaker, and engendering thereby, the bitterest feelings of hostility*, WHICH IN THE END WOULD DESTROY THE UNION ITSELF."

In this address, it will be seen, the same doctrine of non-interference with the subject of slavery is pointedly and forcibly expressed. Even the tendency of discriminating against slavery, to dissolve the Union itself, is here declared. At that time, this doctrine was approved by the whole party North and South, including Col. Benton; but *now*, influenced by some strange, unknown motive, he is found denouncing our resolutions, because they contain the same principles. And every argument he uses against the resolutions will apply with equal force against the Democratic address just given, and against the uniform principles of the party as declared from that day to the present.

But it is well for us, occasionally, to look back at the history of the past. It sheds important and useful light upon the present, and discloses an excellent chart by which to guide us in the future.

On examining the Journal of the Senate for the session of 1837–'38, I find Col. Benton endorsing, by his votes, the principles for which we are now contending, to their full extent. He sustained Mr. Calhoun's celebrated resolutions on slavery, offered during that session, and did not seem to consider it nullification, or even improper to be found voting with the Senator from South Carolina. One of the resolutions for which he voted may be found on page 132, of the Journal of that session, in these words:

"*And Resolved*, That any *attempt of Congress to abolish slavery in any territory of the United States* in which it exists, would create serious alarm and just apprehension in the States sustaining that domestic institution; would be a violation of good faith towards the inhabitants of any such territory, who have been permitted to settle with, and hold slaves therein; because the people of any such territory have not asked for the abolition of slavery therein, *and because, when any such territory shall be admitted into the Union as a State, the people thereof will be enabled to decide that question exclusively for themselves.*"

You thus perceive, from the public records, that in 1838 Col. Benton voted for the same doctrine as that declared by our resolution. The latter he now calls false and treasonable, although he has sustained it in his official conduct under the solemn sanction of an oath.

Then, he declared that any attempt to *abolish slavery in the territories* of the United States would create serious *alarm and just apprehension in the slave States; now*, he says, *he* caused the Oregon bill to be passed, and that in that Territory slavery was *abolished* by the "*Benton proviso.*"—(See page 10, Jefferson City speech, 1st column.)

He also voted for the following resolution:

"*Resolved*, That domestic slavery as it exists in the southern and western States of this Union, composes an important part of their domestic institutions, inherited from their ancestors, and existing at the adoption of the Constitution, by which it is recognized as constituting an important element of the apportionment of powers among the States; and that no change of opinion or feeling on the part of the other States of the Union, in relation to it, *can justify them or their citizens in open and systematic attacks thereon with the view to its overthrow;* and that all such attacks are in manifest violation of the mutual and solemn pledge to protect and defend each other, given by the States, respectively, on entering into the constitutional compact which formed the Union, and, as such, are a manifest breach of faith and a violation of the most solemn obligations." (See Senate Journal, page 122, sess. 1837–'38.)

This resolution contains as plainly the hypothetical charge against the northern States, of an intention to *overthrow slavery* in the South, as the Missouri resolutions; and yet the latter are condemned on that account as false and *insulting*, while the former was approved by him, and received the sanction of his vote in the Senate. But it may be, some excuse could be given for all these votes. Perhaps their true character was only known to Calhoun and a *few plotters!!* We must be charitable.

And here is another resolution, found in the same book, at page 126, which Colonel Benton voted for:

"*Resolved*, That the *interference by the citizens of any of the States, with the view to* the abolition of slavery in this District, (Columbia,) is endangering the rights and security of the people of the District; and that any act or measure of Congress designed to abolish slavery in this District, would be a violation of faith implied in the cessions by the States of Virginia and Maryland, *a just cause of alarm to the people of the slaveholding States, and have a direct and* INEVITABLE TENDENCY TO DISTURB AND ENDANGER THE UNION."

All interference with slavery in the District of Columbia was then condemned, as we now condemn it, and just as much of a *threat* of a dissolution of the Union is there made as can be found in the Missouri resolutions. The *principles* which were right and proper in 1838 cannot be wrong in 1849. *They never change; men, unfortunately, may,* AND SOMETIMES DO.

But neither the Senate resolutions nor the Missouri resolutions, in point of fact, contain threats of disunion, but *both* of them speak of disunion as a *consequence necessarily growing out of* the improper interference with slavery, which is deprecated and condemned. Washington himself, influenced by his love of the Union, admonished us of the dangers which would threaten its dissolution, and specified *sectional feeling* and *sectional parties* as among the greatest of dangers to be apprehended. So the resolutions, in opposing the Wilmot proviso and other similar wrongful acts of legislation, point out their tendency to weaken, if not to break asunder, the bonds of the Union, as arguments against their adoption. And so far from such declarations affording any evidence of a desire or design to dissolve the Union, they afford the best possible evidence of enlightened regard for its perpetuity. If a dissolution were desired, such acts should be permitted and encouraged which would inevitably lead to it. But we see the contrary in all these resolutions. That which would endanger the Union is *deprecated;* and appeals are made to the patriotism of the public, in order to prevent it, and thereby maintain in its purity our prosperous and happy confederated Union.

And besides the Senate resolutions and the Democratic address beforementioned, the well-known Atherton resolutions also present the slave question in the precise light in which it is presented by the Missouri Legislature.

The Atherton resolutions were prepared upon consultation with all the party—regarded as expressing their views—and were adopted by the House of Representatives in the year 1838. They are as follows:

1. *Resolved*, That this Government is a Government of limited powers, and that, by the Constitution of the United States, Congress has no jurisdiction whatever over the subject of slavery in the several States of this Confederacy.

2. *Resolved*, That petitions for the abolition of slavery in the *District of Columbia and the Territories of the United States*, and against the removal of slaves from *one State to another, are a part of a plan of operations set on foot to affect the institution of slavery in the several States, and thus indirectly destroy that institution within their limits.*

3. *Resolved*, That Congress has no right to do that indirectly which it cannot do directly; and that the agitation of the subject of slavery in the *District of Columbia or the Territories*, as a means and with the view of disturbing or overthrowing that institution in the several States, is against the true spirit and meaning of the Constitution, an infringement of the rights of the States affected, and a breach of public faith, upon which they entered into the Confederation.

4. *Resolved*, That the Constitution rests on the broad principles of *equality* among the members of this Confederacy, and that Congress, in the exercise of its acknowledged powers, has *no right to discriminate* between the institutions of one portion of the States and another, with the view of abolishing the one and promoting another.

5. *Resolved, therefore*, That all attempts on the part of Congress to abolish slavery in the *District of Columbia* OR THE TERRITORIES, or to prohibit the removal of slaves from State to State, or to discriminate between the institutions of one portion of the Confederacy and another, with the views aforesaid, are in violation of the Constitution, destructive of the fundamental principle on which the Union of these States rests, and beyond the jurisdiction of Congress; and that every

petition, memorial, resolution, proposition or paper, touching or relating in any way, or to any extent whatever, to slavery, as aforesaid, or the abolition thereof, shall, on the presentation thereof, without any further action thereon, be laid upon the table, without being debated, printed, or referred.

But it is sufficient, without anything further, to refer to the strong and expressive language of the Baltimore platform on the subject. It reads:

"That Congress has no power, under the Constitution, to interfere with or control the domestic institutions of the several States; and that such States are the sole judges of everything appertaining to their own affairs, not prohibited by the Constitution; *that all efforts of the Abolitionists or others, made to induce Congress* TO INTERFERE *with the question of slavery, or take incipient steps in relation thereto, are calculated to lead to the most* DANGEROUS *and* ALARMING *consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger* THE STABILITY *and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.*"

Here ALL *efforts* of *Abolitionists* or OTHERS, (which of course includes "*Free Soilers,*") *made to interfere with the question of slavery,* (and the Wilmot proviso certainly interferes with the question of slavery,) are declared to be *wrong, and to endanger the stability of the Union.* Does not this go equally as far as the Missouri instructions? Is it not as liable to the charge of disunion? And may not every objection be made to it with equal propriety, that has been made to them? The truth of this matter is too plain for argument. But why pursue this subject any further. Every man who will look at the past history of the Democratic party, and at their declarations authentically made on the subject, must know that the doctrine of the Missouri instructions is in strict conformity with the uniform action of the party, which Colonel Benton has repeatedly sustained. And while he admits that Cass and Butler were defeated on this same doctrine, (and whether he admitted it or not, it was of easy demonstration,) still from some cause, to us unknown, he sees proper to condemn, in the bitterest terms, that which has been held up so long and so justly as worthy of our confidence and support. The question now comes to us for decision, whether we will stand firm and adhere to our time-honored principles, or whether we will desert them and follow the meanderings of any individual, however distinguished for wisdom. The solemn duty we owe our country, answers the question with unerring certainty.

And this national, liberal, and constitutional doctrine, is the only one upon which all sections of the Union can unite in harmony and peace. I therefore will continue to occupy the same ground, believing it just and proper, and believing it to be the will of my constituents to do so. Nearly every man with whom I have conversed in my district, coincides with me in opinion on the subject of slavery. Few, if any, dissentients can be found to the votes I have given, or have indicated. And while this is a source of gratification to my feelings, it also induces me to believe that I can, and will, faithfully represent those who have invested me with authority to be exercised for their benefit and protection.

It is said by Col. Benton, that the *fifth* resolution of the General Assembly proposes nullification and disunion, and, consequently, that it ought to be expunged from the statute book. And if, in fact, it be such as he characterizes it, I admit it should be repealed. That which is improper and wrong, should be corrected by a subsequent session of the Legislature; but it should not be made a pretext for repealing what is correct and proper. We must discriminate; and while we condemn the wrong, we must approve and sustain that which is right. No one can consistently object to the first four resolutions just noticed, when fairly construed; and now let us examine the fifth and last, and see how it is. It reads as follows:

"*Resolved*, That in the event of the passage of any act of Congress conflicting with the principles herein contained, *Missouri* will be found in hearty coöperation with the slaveholding States, in such measures as may be deemed necessary for our mutual protection, against the encroachments of northern fanaticism."

Now, whatever may be the true meaning of this resolution, it is absolutely certain that it does not instruct Col. Benton to do anything; that it can have no possible reference to the official conduct of our Senators in Congress; and that

it cannot justify or excuse the Senator for disobeying the four preceding resolutions, which plainly instruct him to sustain the good old doctrine of non-interference.

It does not instruct the *Senator to coöperate*, but it says MISSOURI will coöperate with certain other States in a particular contingency. The resolution is simply a declaration of what the *sovereign State of Missouri* will do; and if the contingency should unfortunately happen, it is for the *State* to carry out the declaration, or not, according to her own will and pleasure.

But the official duty of the *Senator* being confined exclusively to the Senate chamber, in voting or speaking in defence of our constitutional rights, it is utterly impossible that this resolution should have any application to him. What, then, does it mean? Does it pledge *Missouri* to the commission of high treason, by joining and coöperating with a southern confederacy? No; nothing like it whatever. Look at its language, and determine for yourselves.

It says Missouri will coöperate with the slaveholding States: and with whom should we coöperate when our rights to slave property are invaded? Surely not with those who are inimical to our rights, but with those who have a common feeling and a common interest with us.

And for what *purpose* will the State coöperate? To do anything wrong? To resist or nullify any law of Congress? By no means—it is not so declared—the idea was not in contemplation; but the State will coöperate for *our mutual protection against the encroachments of northern fanaticism.* The end to be attained is *mutual protection*, which cannot be considered improper; and the thing to be guarded against is the *encroachment of northern fanaticism.* Encroachment is equivalent to "*deprivation of right;*" so that the whole object aimed at may be regarded as nothing more nor less than the *maintenance of our constitutional rights.* The object to be accomplished being then just and proper, of course the means must be adapted to the end, and will also be just and proper, and no one has any right to suppose or infer the contrary.

But the offensive part of the resolution, with some, consists in the term "coöperate," which, it is alleged, makes it a *compact between the States*, and therefore unconstitutional. The absurdity of this objection will be apparent, when we compare ours with the celebrated Virginia resolution of 1798, viz:

"*And that the necessary and proper measures will be taken by each (State) for coöperating with this State, in maintaining, unimpaired, the authorities, rights, and liberties, reserved to the States respectively, or to the people.*"

Thus spoke Virginia, in 1798, against the alien and sedition laws. Those resolutions, drawn by that great republican statesman, Madison, and approved by the still greater Jefferson, who drew similar ones for Kentucky, though not a citizen of that State, are justly regarded as the CREED of the Democratic party; and yet we see just as much of a *pledge* or *compact* in them, as in the Missouri resolution. They are very similar in language, in object and design; and if there be any difference in sentiment, the resolutions of 1798 are the more subject to the charge of disunion and nullification. And who will charge James Madison with nullification? Who will charge Thomas Jefferson with disunion sentiments? He who makes that charge against the Missouri Legislature, by necessary implication makes the same charge against those venerated sages and patriots. If Missouri proposed to *coöperate*, so did Virginia; and both were for accomplishing the same great object—that of maintaining their constitutional rights. But the charge of disunion is not true. The design is to secure and preserve the Union—not to break it. The only legal union we know, is the union of the Constitution. We seek to preserve that Constitution from violations—to restore it to its integrity when infringed—and to perpetuate, in their purity and excellence, the inestimable principles of our free institutions. And we hope to accomplish this by a moral union, or coöperation with moral influence, acting upon the public mind and public heart.

The Democratic address of Tennessee, adopted in 1849, well expresses the true sentiment on this subject. It says:

"We threaten our northern brethren with neither nullification, secession, nor disunion. We intend to stand by and preserve the Union, by a firm and unyielding vindication of the Constitution. With that glorious instrument in all its vigor, we are more than content. * * * We scorn the charge of disunion, no matter by whom it is made; it is without foundation of truth to rest upon; it is the dishonest clamor of partisan warfare; if it be imputed to our position on the question of slavery, it is an unmitigated calumny. We are for the Union, now and forever—we are for the Union under the Constitution as it is—and we are resolved to preserve the Union by preserving the Constitution. We have no sympathy with those who can stand still and see the Constitution, the bond of our Union, trampled under foot by a sectional majority, without coming to the rescue with all their hearts and souls—we know nothing of the character of the patriotism of those whose remedy for preserving the Union is to acquiesce in the violation of the Constitution."

Our resolutions of instruction, as before remarked, seem to have been drawn with the special intention to condemn the Wilmot proviso, and all measures of a kindred nature. And the fact that Col. Benton is opposed to the resolutions, and will not obey them, as he has himself declared, induces me to believe that he is really in favor of that fanatical and treacherous measure.

But this is not the only thing that induces me to think so. His recent speeches and conduct afford strong corroborative evidence of the same fact. Take, for instance, the following:

First: He is evidently trying to make the people of Missouri indifferent to its passage, and to have it considered as unimportant and inoperative as possible, by calling it "goat's wool"—a mere nothing—a nonentity, &c.; whereas, if he intended to oppose it, and its concomitants, knowing, as he does, our State to be against it, he would seek to exaggerate rather than diminish its importance, in order to magnify his own services against it. This is his uniform character.

Second: He is evidently trying to give it character by connecting the name of a popular statesman, whom he professes to admire, with the "*proviso*," calling it the "*Jefferson proviso*." Now it is a little remarkable that a man should connect the name of his best friend whom he *loves*, with an odious measure that he *hates;* and it is contrary to human nature to do so. He never called the Bank the "*Jefferson bank*," nor the tax on salt the "*Jefferson tax;*" and if he was really opposed to the "*proviso*," and intended to vote against it, he would not take so much pains to make it popular by calling it the "*Jefferson proviso*." Besides, the Free Soilers and Abolitionists have been in the constant habit of calling it the same way; and it is very extraordinary that he should make use of the same terms they do, to give that measure popularity, when it is known that no man opposed to it has ever done so.

Third: He claims full constitutional power to pass it, and *labors* to show numerous precedents in favor of its exercise, which could hardly be the case if he were opposed to it; nor does he say one word against it in any part of his speeches, although on that subject, above all others, the people desired to hear his opinions. It is not reasonable if a man, opposed to a particular measure, should make many long speeches in favor of its constitutionality, and yet say not a word against the measure itself.

Fourth: His particular and intimate confidential friends in St. Louis represent him as in favor of it, and he has never denied it. He is hailed as a Free Soiler throughout the North, and he has never corrected that, though he has been very prompt to deny other things that were said against him. His friends and his enemies have both represented him as a *provisoist*, and he has not dared to deny it. Now his undertaking to set himself right by denying other charges made against him, and then failing to deny this, when his attention was specially called to it, is, to all intents and purposes, equivalent to a *confession*.

Fifth: He says, in his Jefferson City speech, that it would be *unwise* to oppose the passage of the "*proviso*," and I presume it will not be pretended that he intends to do what he himself considers an *unwise act*.

Sixth: He says, in his Boonville speech, that if the *proviso* should be passed by Congress, it will be "*no wrong*." Now *right* and *wrong* are correlative terms, and if it be not wrong, it must be *right;* and surely he cannot design opposing what he thinks is *right*. And even if he should do so, contrary to the expectation of his friends, after what is past, he could not undo the great mischief he has done, nor satisfy the public so as to regain lost confidence.

Seventh: He says, in his Jefferson City speech, that if any person wishes to know his principles about the extension of slavery west, he may see them in his proposal for the admission of Texas. His proposition then is his opinion now, on the subject of the proviso; and he proposed that Texas "should surrender to the United States all the territory west of the one-hundredth parallel of longitude, *which was to be free soil.*" And again he says, "They shall know my opinions. And, first, they may see them in my public acts—in my proposals for the admission of Texas five years ago, in which I proposed to *limit the western extension of slavery* by a longitudinal line. I believe the one-hundredth degree of west longitude." Here we see that Colonel Benton's principles would make *all of California and New Mexico*, and about half of *Texas*, "*free soil*;" and Wilmot's proposition, which is called the "Wilmot proviso," would make California and New Mexico "*free soil*;" and the only difference is, that Benton goes a little further than Wilmot himself. Both are in favor of excluding slavery from the Territories acquired by the treaty with Mexico: and if one deserves to be called a Free Soiler on account of his opinions, the other is equally entitled to bear the same epithet.

Eighth: Colonel Benton also says, that we may learn his opinions by looking at his votes on the Oregon bill. Well, what are they? When Clayton's Compromise bill was pending before the Senate, designed to give governments to all the Territories above mentioned and Oregon, and based on the principle of *non-interference*, Senator Clarke, of Rhode Island, moved to amend this compromise bill, which had been drawn as a *peace measure*, by inserting the Wilmot proviso to the part relating to Oregon. This was an independent proposition, not necessary to procure the passage of the bill, but rather an attack on the bill, and *Colonel Benton voted for it.* This is a plain, naked, unqualified vote in favor of the "*proviso.*" None but Free Soilers voted with him: and, taken in connection with the facts above given, it is conclusive as to his opinions on the subject of the "*proviso.*" He also voted to *recede from* the Missouri Compromise, which had been added to the Oregon bill, in order to settle the whole question in all the Territories. Indeed, it would be difficult to find any member of the Senate whose votes, on this question, have been more obnoxious than Colonel Benton's.

Even the proposition of Mr. Hale, made in accordance with the petition of John Lewis, a negro of Philadelphia, to amend the section of the bill fixing the qualifications of those who should *vote* and *hold office* in Oregon: by which all mulattoes, and all negroes who had a drop of white blood in their veins, were to be placed upon a perfect equality with whites—even that received the sanction of his vote. So odious was the proposition, that many Free Soilers would not vote for it: and none but six of the most ultra anti-slavery men would vote with the Colonel. Their names are: Baldwin, Benton, *Clarke*, Davis, Hale, *Greene* of Rhode Island, and *Upham*; *and every other Senator present* (*forty-four in number*) *voted against it.*

Colonel Benton points us to these acts, that we may learn his position on the slave question: and we find him not only in favor of *free soil*, but actually voting for one of the first movements designed to place a portion of the negro race on terms of political equality with the whites. But I have not space to refer you to all the evidences against him, and will now very briefly state a few of the points of objection to the "*Wilmot proviso.*" I object to it—

1. Because it is an act by Congress, the common agent instituted by *all the States*, for the *protection of all alike on the principles of perfect equality*, which would *discriminate against* the property of nearly one-half the States forming the Union. Every discrimination against any kind of property tends to depreciate it, and is to that extent an absolute *destruction of the rights of property*, which the Union was formed to *protect*.

2. Because it in effect appropriates the whole territory purchased by the blood and treasure of *all* the States, to the exclusive use and enjoyment of the non-slaveholding States.

3. Because it limits and confines slavery to its present bounds: and as it

continues to increase by natural generation, that species of property must *decline in value;* and as it declines in value from superabundance, the *wages* of labor must and will decline in the same ratio; and hence a double injury is inflicted—to the *owners* of that kind of property, and also to *white laborers*, and *all others who earn their living by honest industry.*

4. Because it establishes a dangerous precedent in the Government, which, under fanatical excitement, may hereafter be directed against any *other* kind of property, or against persons, and thus revive *Native Americanism*, or some other visionary dogma, to the destruction of private rights and personal liberty.

5. Because, if slavery be an evil, it increases that evil by stopping the outlet, and making it more dense amongst us. Just in proportion as it is withheld from the Territories, it is added to the present slave States. No good in the aggregate, then, can possibly result from the proviso, while much evil may.

6. Because it leads to *insurrection and massacre*, by establishing a means which must ultimately place the power in the hands of the blacks—the bloody horrors of which the mind cannot even contemplate without an involuntary shudder. What, then, must be the feelings of the patriot when he reflects that this dire calamity is to be brought about by the action of that Government which was designed for *protection!!*

7. Because it is designed to coerce the South to emancipate their slaves, by such interference as must tend to make them *unprofitable* and *dangerous; and for that very reason the proviso has been espoused, and is advocated by the Abolitionists of the North.*

8. Because, after all these unfortunate results have been produced, it *curses* the South forever with a *dense free negro population*, which is the worst of all classes with which they could be afflicted. Colonization is not thought of nor proposed, and, if proposed, is deemed impracticable; so that no resource would be left, but to abandon to the blacks that fair and productive portion of our Union from which more than half of our exportations have been derived. Our wages, our property, our safety, our lives, would be put in jeopardy by its enactment. But the consequences, direct and remote, are too sickening and heartrending to be followed out in detail. These will suffice as mere examples.

On questions so vital, so momentous as this, it is certainly important that the people should know precisely, without doubt or ambiguity, the opinions of their public servants. How else can they expect to be faithfully and truly represented? Col. Benton has been asked frequently by his constituents for his opinions on the subject, and he has never answered any one so as to make himself understood; nor would he give them the least satisfaction. He replied, "I MAKE NO PLEDGES—I GIVE NO BONDS;" and in no instance would he answer whether he was *for* or *against Free Soilism.* Now, I believe from the facts above given, together with various others, that he is as much a *Free Soiler* as David Wilmot; but yet there are many good and worthy citizens of our State who think he is *against* Free Soilism, and would abandon him in an instant if they believed he would favor that odious and dangerous scheme. To my certain knowledge some of his friends consider him committed for the proviso, and others consider him against it. One or the other of these must be deceived—one or the other must be disappointed. In such case, neither one should repose any confidence in the man, who knowingly and willfully practices such duplicity and double-dealing as must eventuate in the disappointment of one or both; and no man can tell but that he himself may be the sufferer.

But what if he should, contrary to the expectations of his Free Soil friends, change his course and come out against the proviso,—it cannot check the great impetus given to that party—it cannot stay the mighty avalanche put in motion by him, that threatens to overwhelm us—it cannot redress the irreparable wrongs already inflicted upon Missouri, through the influence of his name. These are injuries past recall, which patriotism must mitigate to the extent of constitutional power.

Colonel Benton, however, says the proviso is nothing but "*goat's wool,*" because he says slavery was abolished by Mexico before we acquired the Territory. Let us consider this for a moment.

The first thing referred to, is the proclamation of the President of Mexico, in 1829, which *purported* to abolish slavery throughout the Republic. But this was powerless and void; for the President did not possess competent authority to abolish slavery in the States of Mexico by proclamation, and his act was *not ratified* by the Mexican Congress. It therefore was inoperative, and remained a dead letter, and slaves still continued to be held in the Mexican States. In 1837 another attempt was made by the Mexican Congress to abolish slavery, and this fact shows that the proclamation was a nullity, else there could have been no necessity, according to Colonel Benton's doctrine, for any other act. The law of 1837, however, was never carried into effect. It provided for the appointment of *appraisers*, who should appraise the slaves, to be paid for out of the public treasury. None of which things were ever done; and slaves, peons, and Indian slaves, bought and sold for life, were still held in the States,—thereby giving practical illustration and evidence of the invalidity of the law. The next thing referred to is the Constitution of Mexico adopted in 1844, which prohibits the establishment of slavery. Does that prohibition still apply to California and New Mexico, since their transfer to the United States? Are these Territories yet under, and subject to, the Constitution of Mexico? Every one knows they are not; and that they are now subject to the Constitution of the United States, which *does not prohibit slavery*. I hold it as beyond dispute, that slavery never was abolished *in fact*, in California and New Mexico; and when that territory was annexed to the United States, we did not, and could not, annex the *obsolete, inoperative, and dormant* laws, edicts, and decrees which might be found among the ancient records of that nation; but only such *actual, practiced, and living* customs and institutions as were not inconsistent with the Constitution of the United States, and the rights of American citizens under it. As slavery had an *actual existence* in these Territories at the time of the transfer, such part of it as may not be inconsistent with the principles just stated would be continued under our Government.

A law of Mexico, which would be recognized and continued in California after the treaty, would not be continued because it was the command of the law-making power of Mexico, which gave it original obligatory force, but because it had been practiced so as to become an existing custom, and private rights had grown up under, and were dependent upon, it. The law of necessity, and the rule of justice, would continue such, and no other.

But even if slavery had been perfectly and totally abolished by Mexico, still, since the transfer to the United States, no law could be continued in force, except such as were not incompatible with the rights of our citizens. And if the Congress of the United States has no power to exclude slavery from the Territories, because the exclusion would be inconsistent with the rights of American citizens, then, a former exclusion of slavery made by Mexico, being equally inconsistent with those rights, would cease and become inoperative the moment the treaty was ratified. An important question, therefore, arises—whether Congress has the right to make such exclusion, or, in other words, to pass the "*Wilmot proviso.*"

Congress is the creature of the Constitution, and possesses no power except what may be conferred by that instrument; and unless it can be *affirmatively* shown by the Constitution that Congress has the right to prohibit and exclude slavery, the right can have no existence. Where, then, in the Constitution, is the power to be found? What clause or section confers it? There is but one from which any person pretends to deduce it, and that is the clause, "To dispose of, and make all needful rules and regulations respecting the territory or *other* property belonging to the United States." Here "*territory*" is regarded as *property*, and is equivalent to "*lands;*" for it says "*territory* or OTHER *property;*" and unless the term *territory* be construed to mean property, there would be no antecedent to render the use of the word "*other*" applicable and appropriate.

Under this clause, Congress can make no rule or regulation respecting *slaves* or *horses*, or *other private* property, or property belonging to *individuals*, but only

respecting the property belonging to the United States. This is the language of the Constitution, and this is its true spirit and meaning. Any other interpretation would place the *sacred rights* of *private* property at the mercy of a great central government, and in the end lead to the most disastrous consequences. Congress cannot make any article or commodity *property*, which is not so already; neither can Congress annihilate the rights of property which any individual may have in or to any article or commodity. In this respect the power of Congress was not intended to be *creative* or *destructive*, but PROTECTIVE.

There is, in this clause, no delegation of authority for Congress to govern the territory with general legislative discretion; but, on the contrary, a mere grant of power to make *such rules and regulations respecting the territory as may be "needful."* Now, can it be *needful* to make a rule or regulation which is prejudicial to the interests of one half of the Union? When the Constitution was adopted, and the term "*needful*" received the sanction of the Union, more than half the States held slaves; and can it be possible that they intended, by this term, to authorize their common agent to exclude their citizens and property from the common domain of the Union? This cannot be. The idea is preposterous. And it is our solemn duty to avoid a construction now, which we know was not intended when the Constitution was ratified. And besides, we all know it cannot be needful to exclude slavery from a Territory, in order to make the necessary rules and regulations respecting it. These rules and regulations which may be made must not be inconsistent with the great principles of *equality* which lie at the foundation of the Union. If a regulation authorizes a citizen of one State to settle in the Territory with all his property, it must, on the principles of equality, authorize a citizen from any other State to settle with all his property also. Every species of property, including slaves, was known and recognized by the Constitution; and now for the agent of that Constitution to make a discrimination against one kind of property and in favor of another, would be the grossest injustice to the owners, as well as a flagrant departure from the true purpose for which the Union was formed. This Union was formed by Virginia and other southern States, together with the northern States, and it would be ridiculous to suppose that these slaveholding States empowered their common agent to pass a law destructive of their rights, or even discriminating against them. No, gentlemen, the purpose was never contemplated; and the word "*needful,*" as employed in the Constitution, was never intended to convey such power. Hence I hold that Congress does not possess the power; and that the Wilmot proviso, or any similar law, would be a palpable violation of the Constitution, because it would be an exercise of power not granted by that instrument.

But there is another consideration which utterly disproves the existence of any such power, as deduced from this clause. The same power is conferred upon Congress over "*other property belonging to the United States*" that is conferred over the *territory*. The power over both is conferred in the same words, and in the same clause; for it authorizes Congress "to make all needful rules and regulations respecting the territory OR other property belonging to the United States." Now if, by virtue of this grant, Congress has power to apply the Wilmot proviso to the territory, or to exclude slavery therefrom, then the Wilmot proviso may be applied to any other property belonging to the United States.

The power is the same over such property, without reference to its locality—whether in the slave or non-slaveholding States—and hence, all the vacant lands in Missouri and other States could be made "free soil," according to the construction of those who assert the constitutionality of the Wilmot proviso. The absurd and ridiculous consequence of a construction, proves it to be a false construction; and that mode of construing this clause which enables Congress to abolish slavery in California, will also enable Congress to make "*free soil*" of all the vacant lands in Missouri; thereby creating dens for the ultra Abolitionists and fugitive slaves, and presenting an absurdity so palpable as to shock the common sense of every reasonable man.

No one is so misled by fanaticism and folly as to assert the right of Congress to apply the "*proviso*" to the vacant lands in the States; and as the Constitution in this clause gives Congress the same power, without limitation or qualification, over the vacant lands that it does over the territory, it is absolutely self-evident that Congress has no right to apply the proviso to the territory.

When the Constitution intended to give Congress a general legislative power, it was always given in express and appropriate words. Over the District of Columbia, power is given "*to exercise exclusive legislation in all cases whatsoever.*" So, also, with regard to all places purchased by the consent of the States, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

In these cases *exclusive legislative power* is given; while, with respect to the "*territory or other property*," there is but a very *limited and special* grant to make rules and regulations; and yet, the doctrine of those who hold to the constitutionality of the *Wilmot proviso*, would make the power of Congress over the territory as *general*, as *exclusive*, and as *unlimited* as it is over the District of Columbia. But this is clearly wrong, and clearly in conflict with the Constitution; and no strict constructionist, of the Jeffersonian school, can ever subscribe to such a false and dangerous doctrine. At least this is my view of the subject, though I do not wish to censure others who cannot agree with me in opinion.

But I go further still. Even in the District of Columbia, notwithstanding *exclusive legislative power* is given, I wholly deny the right of Congress to abolish slavery. Exclusive legislation does not mean *unlimited* legislation, but rather that Congress shall be the *only* legislative power for the District. And while Congress is the *exclusive*, that is, the *only* and *sole* legislature for the District of Columbia, its powers over it have many great and important limitations and restrictions. The great principles of justice to all parts of the Union—the sacred and inviolable rights of private property—the obligation of good faith to the State of Maryland—and a rigid observance of the original understanding of the purpose and intent for which the grant was made,—all interpose barriers of the strongest possible character to restrain the power of Congress from the abolition of slavery. All those great American principles, paramount to all constitutions, and to *maintain* which the Constitution itself was brought into existence, would be violated by the exercise of any such power. The right and title to every species of property in the District of Columbia are as much subject to the control of Congress as *slaves;* and if Congress can destroy the one, the others may be destroyed also. And this Government, supposed to be limited, and designed to *protect* individual rights, would become the most gigantic in power, and the most dangerous of any Government on earth. It cannot be; it is not so; the Constitution never intended it. The duty and character of this Government, in affording protection to every kind of property, everywhere outside of and beyond the *local law*, are truly and forcibly exemplified in the case of slaves sailing upon the high seas. A slave sailing under the flag of the United Stetes, upon the highway of nations, and not under the influence of any local law, is nevertheless protected as such by the Constitution of the United States. By the principles of international law, the vessel is *considered* as part of the *domain of the Union*—not of any particular State—and being part of such domain of the nation, the slave is protected and secured to the owner. Now, if the slaveholder's rights are protected on the vessel—which *by fiction of law only* constitutes part of the *domain*—will not the same rights be equally entitled to protection when in the *actual domain*—the *Territories of the United States*?

Some, however, derive the power to govern the Territories, and to pass the Wilmot proviso, from the law of *necessity*. And the only answer necessary to be made to this is, that if the power to govern be given by *necessity*, then the extent of that power is also *limited by necessity*, and consequently there can be no right to exclude slavery from the Territories; for they may be governed, as many have been, with justice and equality, with safety and propriety, without the enactment of any such law.

But for want of any better argument to sustain the existence of the power to enact the proviso, *precedents* have been invoked, just as though a flagrant wrong would cease to be a wrong from the frequency of its repetition. And even these, as uncertain and unsafe as they are in governmental action, will not help out the "*Free Soilers*" in their mad and fanatical schemes.

The ordinance of July 13th, 1787, by which slavery was prohibited in all the Northwest Territory, was passed *before* the Constitution of the United States was formed, and *before* our present Government had an existence. And it would be worse than idle, to refer to what may have been done under a *former* government which has passed away, as a precedent to prove what may be done by this—a new and different Government.

But after this ordinance was passed, the Constitution was formed, and our present Government under it first went into operation in the year 1789. And every territorial government organized within the Northwest Territory from that day to the present, was nothing more than carrying out in good faith the compact and agreements contained in said ordinance, which this Government was bound to observe, and which it could not in honor annul. Hence these several acts afford no precedents with respect to the power of Congress to exclude slavery from a Territory; for in neither one of them did Congress do any such thing—slavery having been previously excluded by the ordinance of 1787—and any such words, if found in the acts, would be nothing more than evidence of the fulfillment of a prior obligation. The Constitution *expressly* required all *engagements* entered into before its adoption, to be sacredly observed. (See Article 6th.) And this compact concerning the Northwest Territory was an *engagement*. All the other territorial bills until 1820 were passed *without* any restriction whatever on the subject of slavery. In 1820 the great Missouri controversy arose, and the question of restricting slavery for the first time came before Congress for consideration. Intense excitement raged from one end of the Union to the other—the North urging a total exclusion of slavery from the whole Territory, and the South resisting any exclusion or interference. It is well known that Jefferson was strongly *opposed* to the attempt to restrict slavery, and that Madison was equally opposed to it, and *denied* the constitutional power of Congress to pass such a law. These statesmen looked upon it as a *political movement*, designed to obtain *political power*. The excited controversy, however, was settled on a *compromise* between the North and South; the latter yielding, for the sake of peace and harmony, and for the preservation of the Union, a portion of her constitutional rights. The South stood by this compromise in good faith, not because the North had any right to exclude slavery down to 36° 30′ north latitude, but in order to *save the Union*, and as the least of evils then presented. But being a *compromise*, it precludes the idea of any reference to it as a *precedent;* for such it is not. The Iowa bill con-

tained no restriction of slavery, neither does the Minesota bill. When Texas was annexed, the object was to harmonize with the Missouri compromise; but that act did not abolish slavery in any of the Texan *territory;* and when any of it north of 36° 30′ becomes a sovereign State, of course the question of slavery will be under her exclusive control; and even if slavery had been restricted in any part of the Texan territory, it would have been the result of the sovereign act of *Texas*, and not of our Congress. So far, then, there is not a solitary clear precedent in favor of the power claimed for Congress to pass the Wilmot proviso.

The only remaining one to be noticed is the Oregon bill, which, I admit, does contain a restriction with regard to slavery; but that bill was voted for by many and approved by President Polk, alone upon the ground of maintaining the Missouri compromise, and inasmuch as the whole of the Territory was situated north of that line. It therefore ought not to be considered a precedent; but if it is one, it is the *only one*. Colonel Benton, in his Fayette speech, substantially admits it in this language:

"And I agree with what he (Calhoun) next says in the same passage: '*That it* (the Oregon bill) was the FIRST *bill of the kind ever passed;*' that is to say, the *first one for a simple and total exclusion of slavery from a Territory* without concession, equivalent, or compromise. *It was so;* and as such did assert and did exercise an unlimited power over the existence of slavery in a Territory. * * * * *I carried that bill!* and it is one of the proud actions of my life. I made the motion to recede from the Senate's amendment—the Missouri compromise."

This, then, if it be a precedent, is the *first* and the *only one*, and it is made such by the act of Colonel Benton, for he says he *carried that bill!!* and it cannot be entitled to any more weight than the opinions of Madison and others on the other side of the question.

I have thus shown, that for about the first sixty years of our Government no such law as the Wilmot proviso was ever passed. During that time we advanced in greatness and power as a nation, until we have become the admiration of the world. We have no subject of serious discord to interrupt our onward progress, except this unfortunate slave agitation. Is it not then safe, and prudent, and wise—nay, is it not our *solemn duty*, to stand firm on the ground occupied by the fathers of the Republic—non-interference—and let the subject of slavery alone? And ought we not to vote against every agitation of the question, and thereby put down this element of discord? This can do no harm to any section of the Union, while the opposite may peril its existence. And there is another reason why we should oppose the proviso. It is but *one* of the many schemes which the Abolition party have in contemplation. They are seeking, also, to abolish slavery in the District of Columbia—also to abolish it in all the Southern *forts*, arsenals, &c., over which Congress has any color of jurisdiction—also to prohibit the trade and passage of slaves from one State to another, and, by undermining the institution, cause it to fall with a crushing weight upon the defenceless heads of the South. And every measure they carry, encourages them the more to persevere. Now that we see their object, and know their ultimate aim, let us unitedly defeat their instrumentalities, and thereby save ourselves, and save the Union also.

The sentiments here advanced are such as I have long entertained, and have repeatedly declared to my constituents during the last summer and fall, in compliance with the requests of those to whom I am responsible for my political action. Throughout the district I have found the citizens nearly unanimous in favor of the same opinions—all, or nearly all, being opposed to the proviso, and in favor of *non-interference*, leaving the question of slavery unaffected by Congressional action, which is the only national doctrine upon which all sections of the Union may unite, and settle, to the satisfaction of all concerned, this unfortunate controversy. I am aware that some of my friends thought my language last fall savored too much of hostility to Col. Benton. It may have seemed so to one not acquainted with the circumstances demanding it; but a full knowledge of these will at least extenuate, if not completely justify me for every word I uttered. Not a single disrespectful term was ever applied by me to Col. Benton, until his hostility had provoked it in self-defence. But when he threatened to "*crush*" me, and "*grind me to dust*," and otherwise outraged my feelings without just cause, in the excitement naturally produced I departed from my usual conduct, and in acrimonious retort indulged in language which may have been too harsh and improper. In no instance, however, did I go further than the example he had given me. And if the *harmony* of the delegation has been interrupted, it was not caused by me; for my opinions are the same as those of the great Democratic party; and if Col. Benton also agrees to those long-cherished principles, set forth in the Cass and Butler platform, then there is no principle yet to interrupt the *harmony* of the delegation. But if he has deviated from the track, I know it is not desired that the delegation should follow, even to preserve *harmony* with their colleague. And should there be an absence of harmony in the delegation on the slave question, it is not the first instance. On the Oregon question of 54° 40′ there was no *harmony;* on the *annexation of Texas* there was no *harmony;* and on various other questions a majority of the delegation differed with Col. Benton, and *so did the people of Missouri.* But yet I love harmony, and will, at all times, endeavor to establish and maintain it; but never at the expense of principle and truth. These must be preserved at all hazards.

I trust now my opinions and feelings will be distinctly understood by every person in the district. I really desire to give satisfaction to all, and thus far, in my public course, I believe my official duty has been discharged to the satisfaction of every one. And my hope is, that by sustaining these principles, united with close attention, constant application, and persevering energy, I may contribute in some degree to the permanent good of our beloved country.

I am, respectfully, your obedient servant,

JAMES S. GREEN.